

FILED

MAY 14, 2003

NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS

PETER C. HARVEY
ACTING ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07102
Attorney for Board of Medical Examiners

By: Swang Oo
Deputy Attorney General
(973) 648-7093

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF THE LICENSE OF

EMILIO J. CAUCCI, D.O.

Administrative Action

TO PRACTICE MEDICINE AND SURGERY :
IN THE STATE OF NEW JERSEY

**CONSENT ORDER OF
VOLUNTARY SURRENDER**

This matter was opened to the State Board of Medical Examiners (the "Board") upon receipt of notice that Emilio J. Caucci, D.O. ("Respondent") failed to report to the New Jersey Physicians' Health Program (PHP) for random urine screens since December 18, 2002. Respondent also failed to appear before the Impairment Review Committee, a committee of the Board, on April 02, 2003. The doctor being desirous of resolving this matter and the Board having found the within disposition adequately protective of the public health, safety and welfare,

IT IS ON THIS 14th DAY OF MAY, 2003

ORDERED:

1. Respondent, Emilio J. Caucci, D.O. is hereby granted leave and shall immediately surrender his license to practice medicine and surgery in the State of New Jersey

CERTIFIED TRUE COPY

2. Respondent may petition for reinstatement upon showing a negative urine screens for **six** months immediately preceding the petition, a current psychological evaluation and Respondent's agreement to provide urine Screens for a minimum of **six** months after reinstatement. This urine screens shall be through the Physicians' Health Program of the Medical Society of New Jersey. The burden shall be on Respondent to demonstrate **by** clear and convincing evidence that he is fit, competent **and** sufficiently rehabilitated to re-enter the practice of medicine in New Jersey. **Any** reinstatement pursuant **to** Respondent's petition shall be embodied in a further Order of the Board that shall provide, at least, the following provisions:

(a) During the six-month monitoring period following reinstatement of license Respondent shall have his urine monitored **at** his own expense on **a** random, unannounced basis through the Physicians Health Program. Testing **shall be performed at least** one (1) time **per week**. The **urine** specimens shall **be performed** with direct witnessing by a Board approved monitor. The initial drug screen will utilize appropriate screening techniques **and all confirming tests and/or secondary tests** will be performed by gas/chromatography/mass spectrometry (G.C./M.S.). The testing procedure shall include a forensic chain of **custody** protocol to ensure sample integrity **and** to provide documentation in the event of a legal challenge;

(b) The result of all tests shall be reported directly from the laboratory to William Roeder, Executive Director of the Board or his successor or his designee in the event he is unavailable. The Board also will **retain** sole discretion **to** modify the manner **of** testing in the event technical developments or individual requirements indicate that a different methodology or approach is required in order to guarantee the accuracy and reliability of the testing;

(c) Any failure to appear for a urine test for which consent is not secured from the Board and for which no written substantiation is furnished satisfactory to the Board within two (2) days of such failure to appear shall automatically **suspend** his petition for reinstatement. "Impossibility" as **employed** in this provision shall mean an **obstacle** beyond the control of Respondent that is so insurmountable or that makes **appearance** for the test or provision of the urine sample so infeasible that a reasonable person would not withhold consent to waive the test on that day;

(d) In the event Respondent Will be out of the State for any reason, the Board shall be so advised so that arrangements may be made at the Board's discretion, modify the frequency of testing or method of testing during the monitoring period;

(e) Respondent shall familiarize himself with all foods, food additives or other products (such as **peppy** seeds) which may affect the validity of urine screens, be presumed to possess that knowledge, and shall refrain from the use of such substances. Ingestion of such substances shall not be an acceptable reason for a **positive** urine screen and/or failure to comply with the urine monitoring program; and

3. Any deviation from the terms of this Order without the prior written consent of the Board or any violation of law shall be actionable by the Board. Upon receipt of any negative information, Respondent's license may be automatically suspended by the Board. Upon notice of said violation, Respondent shall have ten days to request a full hearing in accordance with all rules and regulations to contest the entry of the order. After hearing, the Board may add or modify said order in accordance with the evidence presented.

4. Respondent shall immediately return his original New Jersey license and current biennial registration to the New Jersey State Board of Medical Examiners, 140 Front Street, Second Floor. P.O. **Box** 183, Trenton, New Jersey 08608-0183.

5. Respondent shall immediately **return** his **original** CDS registration to the New Jersey State Board of Medical Examiners, 140 Front Street, Second Floor, P.O. **Box** 183, Trenton, New Jersey 08608-0183, immediately upon receipt of this Order and **shall** not prescribe **or** dispense any Controlled Dangerous Substances unless and until said registration is restored.

6. Respondent shall immediately advise the **DEA** of this Order,

7. Respondent shall comply with the "Directives Applicable to **Any** Medical Board Licensee Who is Suspended, **Revoked**, or Whose Surrender of Licensure has been Accepted" which is attached hereto **and** made a **part** hereof.

STATEBOARD OF MEDICAL EXAMINERS

By: Glenn A. Farrell
Secretary of the Board
for Glenn A. Farrell
William V. Harrer, M.D., B.L.D.
Board President

I have read and understood the within Order **and agree** to be bound by its terms. Consent is hereby given to the Board **to** enter this Order.

Emilio J. Caucci
Emilio J. Caucci, D.O.

**DIRECTIVES APPLICABLE TO ANY MEDICAL BOARD LICENSEE
WHO IS DISCIPLINED OR WHOSE SURRENDER OF LICENSURE
HAS BEEN ACCEPTED**

APPROVED BY THE BOARD ON MAY 10,2000

All licensees who are the subject of a disciplinary order of the Board are required to provide the information required on the Addendum to these Directives. The information provided will be maintained separately and will not be part of the public document filed with the Board. Failure to provide the information required may result in further disciplinary action for failing to cooperate with the Board, as required by N.J.A.C. 13:45C-1 et seq. Paragraphs 1 through 4 below shall apply when a license is suspended or revoked or permanently surrendered, with or without prejudice. Paragraph 5 applies to licensees who are the subject of an order which, while permitting continued practice, contains a probation or monitoring requirement.

1. Document Return and Agency Notification

The licensee shall promptly forward to the Board office at Post Office Box 183, 140 East Front Street, 2nd floor, Trenton, New Jersey 08625-0183, the original license, current biennial registration and, if applicable, the original CDS registration. In addition, if the licensee holds a Drug Enforcement Agency (DEA) registration, he or she shall promptly advise the DEA of the licensure action. (With respect to suspensions of a finite term, at the conclusion of the term, the licensee may contact the Board office for the return of the documents previously surrendered to the Board. In addition, at the conclusion of the term, the licensee should contact the DEA to advise of the resumption of practice and to ascertain the impact of that change upon his/her DEA registration.)

2. Practice Cessation

The licensee shall cease and desist from engaging in the practice of medicine in this State. This prohibition not only bars a licensee from rendering professional services, but also from providing an opinion as to professional practice or its application, or representing him/herself as being eligible to practice. (Although the licensee need not affirmatively advise patients or others of the revocation, suspension or surrender, the licensee must truthfully disclose his/her licensure status in response to inquiry.) The disciplined licensee is also prohibited from occupying, sharing or using office space in which another licensee provides health care services. The disciplined licensee may contract for, accept payment from another licensee for or rent at fair market value office premises and/or equipment. In no case may the disciplined licensee authorize, allow or condone the use of his/her provider number by any health care practice or any other licensee or health care provider. (In situations where the licensee has been suspended for less than one year, the licensee may accept payment from another professional who is using his/her office during the period that the licensee is suspended, for the payment of salaries for office staff employed at the time of the Board action.)

A licensee whose license has been revoked, suspended for one (1) year or more or permanently surrendered must remove signs and take affirmative action to *stop advertisements* by which his/her eligibility to practice *is represented*. The licensee must also take steps to remove his/her name from professional listings, telephone directories, professional stationery, or billings. If the licensee's name is utilized in a group practice title, it shall be deleted. Prescription pads bearing the licensee's name shall be destroyed. A destruction report form obtained from the Office of Drug Control (973-504-6558) must be filed. If no other licensee is providing services at the location, all medications must be removed and returned to the manufacturer, if possible, destroyed or safeguarded. (In situations where a license has been suspended for less than one year, prescription pads and medications need not be destroyed but must be secured in a locked place for safekeeping.)

3. Practice Income Prohibitions/Divestiture of Equity Interest in Professional Service Corporations and Limited Liability Companies

A licensee shall not charge, receive or share in any fee for professional services rendered by him/herself or others while barred from engaging in the professional practice. The licensee may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of the Board action.

A licensee who is a shareholder in a professional service corporation organized to engage in the professional practice, whose license is revoked, surrendered or suspended for a term of one (1) year or more shall be deemed to be disqualified from the practice within the meaning of the Professional Service Corporation Act. (N.J.S.A. 14A:17-11). A disqualified licensee shall divest him/herself of all financial interest in the professional service corporation pursuant to N.J.S.A. 14A:17-13(c). A licensee who is a member of a limited liability company organized pursuant to N.J.S.A. 42:1-44, shall divest him/herself of all financial interest. Such divestiture shall occur within 90 days following the entry of the Order rendering the licensee disqualified to participate in the applicable form of ownership. Upon divestiture, a licensee shall forward to the Board a copy of documentation forwarded to the Secretary of State, Commercial Reporting Division, demonstrating that the interest has been terminated. If the licensee is the sole shareholder in a professional service corporation, the corporation must be dissolved within 90 days of the licensee's disqualification.

4. Medical Records

If, as a result of the Board's action, a practice is closed or transferred to another location, the licensee shall ensure that during the three (3) month period following the effective date of the disciplinary order, a message will be delivered to patients calling the former office premises, advising where records may be obtained. The message should inform patients of the names and telephone numbers of the licensee (or his/her attorney) assuming custody of the records. The same information shall also be disseminated by means of a notice to be published at least once per month for three (3) months in a newspaper of

general circulation in the geographic vicinity in which the practice **was** conducted. At the **end** of the three month period, **the** licensee **shall** file with **the** Board the name **and** telephone number of the contact person who **will** have access to medical records of former patients. **Any** change in that **individual** or his/her telephone number **shall be** promptly reported to the Board. When a patient or his/her representative requests a copy of his/her medical **record** or **asks** that **record be** forwarded to another health care provider, the licensee **shall promptly** provide the **record** without charge to the patient.

5. Probation/Monitoring Conditions

With respect to any licensee who **is the subject of** any Order imposing a probation or monitoring requirement **or a stay of** an active **suspension**, in whole or **in** part, which **is** conditioned upon compliance **with a** probation **or** monitoring requirement, the licensee shall fully cooperate with the Board **and its** designated representatives, including the Enforcement Bureau **of the Division** of Consumer **Affairs**, **in** ongoing monitoring of the licensee's status and practice. Such monitoring shall **be at the expense** of the disciplined practitioner.

(a) Monitoring of practice conditions **may include, but is not limited to**, inspection **of** the professional premises **and** equipment, and Inspection and copying of patient records (confidentiality **of** patient identity shall **be** protected **by** the Board) to verify compliance with the Board Order and accepted standards of practice.

(b) Monitoring of status conditions for **an impaired** practitioner may include, **but is not limited to**, practitioner cooperation in providing releases permitting unrestricted access to **records** and other information **to** the extent permitted **by** law from any treatment facility, other treating practitioner, support group or other individual/facility **involved** in the education, treatment, monitoring or oversight of the practitioner, **or** maintained **by** a rehabilitation program for impaired practitioners. If bodily substance monitoring has been ordered, the practitioners shall fully cooperate **by** responding to a demand for breath, **blood**, urine or other sample in a timely manner and providing the designated sample.



**NOTICE OF REPORTING PRACTICES OF BOARD
REGARDING DISCIPLINARY ACTIONS**

Pursuant to N.J.S.A. 52:14B-3(3), all orders of the New Jersey State Board of Medical Examiners are available for public inspection. Should any inquiry be made concerning the status of a licensee, the inquirer will be informed of the existence of the order and a copy will be provided if requested. All evidentiary hearings, proceedings on motions or other applications which are conducted as public hearings and the record, including the transcript and documents marked in evidence, are available for public inspection, upon request.

Pursuant to 45 CFR Subtitle A 60.8, the Board is obligated to report to the National Practitioners Data Bank any action relating to a physician which is based on reasons relating to professional competence or professional conduct:

- (1) Which **revokes** or suspends (or **otherwise** restricts) a license,
- (2) Which **censures**, reprimands or **places** on probation,
- (3) Under which a license is surrendered.

Pursuant to 45 CFR Section 61.7, the Board is obligated to report to the Healthcare Integrity and Protection (HIP) Data Bank, any formal or official actions, such as revocation or suspension of a license (and the length of any such suspension), reprimand, censure or probation or any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, non-renewability, or otherwise, or any other negative action or finding by such Federal or State agency that is publicly available information.

Pursuant to N.J.S.A. 45:9-19.13, if the Board refuses to **issue**, suspends, revokes or otherwise places conditions on a license or permit, it is obligated to notify each licensed health care facility and health maintenance organization with which a licensee is affiliated and every other board licensee in this state with whom he or she is directly associated in private medical practice.

In accordance with an agreement with the Federation of State Medical Boards of the United States, a list of all disciplinary orders are provided to that organization on a monthly basis.

Within the month following entry of an order, a summary of the order will appear on the public agenda for the next monthly Board meeting and is forwarded to those members of the public requesting a copy. In addition, the same summary will appear in the minutes of that Board meeting, which are also made available to those requesting a copy.

Within the month following entry of an order, a summary of the order will appear in a Monthly Disciplinary Action Listing which is made available to those members of the public requesting a copy.

On a periodic basis the Board disseminates to its licensees a newsletter which includes a brief description of all of the orders entered by the Board.

From time to time, the Press Office of the Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

Nothing herein is intended in any way to limit the Board, the Division or the Attorney General from disclosing any public document.